

James D. DeRoche, Bar No. 69592
jderoche@perkinscoie.com
Steven C. Gonzalez, Bar No. 191756
sgonzalez@perkinscoie.com
PERKINS COIE LLP
1620 26th Street, Sixth Floor, South Tower
Santa Monica, CA 90404
PHONE: 310.788.9900
FAX: 310.843.1250

Attorneys for Defendant
Rocky Mountain Chocolate Factory, Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SDMS, IND., THOMAS P. ANDERSON,
and KEN PECUS,

Plaintiff,

v.

ROCKY MOUNTAIN CHOCOLATE
FACTORY, INC.,

Defendant.

Case No. 08CV833 (JM) (AJB)

EX PARTE APPLICATION FOR ORDER
EXTENDING TIME TO PLEAD

Defendant, Rocky Mountain Chocolate Factory, Inc. ("RMCF"), by and through its counsel, hereby respectfully applies to the Court ex parte for an Order extending time to respond to Plaintiffs' First Amended Complaint, up to and including June 24, 2008. An attorney from another office of the undersigned counsel's firm has advised counsel for Plaintiffs that such an ex parte request will be made to this Court. Said counsel has indicated no opposition thereto and has agreed to allow such an extension, as stated in the accompanying Declaration. Defendant has not sought or obtained any previous extensions of time. For the reasons set forth in the Declaration accompanying this ex parte application, the requested extension is timely and good cause exists for the requested extension in order to allow RMCF sufficient time to prepare its response to the First Amended Complaint.

1 WHEREFORE, RMCF respectfully requests that the Court grant it an extension up to and
2 including June 24, 2008, to submit its response to the First Amended Complaint.

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4 DATED: June 5, 2008

PERKINS COIE LLP

5 By: s/Steven C. Gonzalez
6 Steven C. Gonzalez, Attorneys for Defendant
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